

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



JULIAN PAUL LAGOS,

Charging Party,

v.

UNITED EDUCATORS OF SAN FRANCISCO,

Respondent.

Case No. SF-CO-755-E

PERB Decision No. 2232

January 23, 2012

Appearances: Julian Paul Lagos, on his own behalf; Weinberg, Roger & Rosenfeld by Stewart Weinberg, Attorney, for United Educators of San Francisco.

Before McKeag, Dowdin Calvillo and Huguenin, Members.

DECISION

HUGUENIN, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Julian Paul Lagos (Lagos) of a Board agent's dismissal of his unfair practice charge. The charge, filed November 9, 2010, alleges that United Educators of San Francisco (UESF) violated the Educational Employment Relations Act (EERA)¹ by breaching its duty of fair representation when UESF refused to pursue Lagos' grievance to arbitration.

On December 28, 2010, the Board agent dismissed the charge. In the dismissal letter, the Board agent concluded that Lagos failed to provide sufficient facts to establish a prima facie case that UESF's decision not to arbitrate his grievance was the product of arbitrary, discriminatory or bad faith conduct.

¹ EERA is codified at Government Code section 3540 et seq.

We have reviewed Lagos' appeal and the entire record in this matter. Based on our review, we remand this case to the Office of the General Counsel for further investigation for the reasons discussed below.

DISCUSSION

On appeal, Lagos alleges that the Board agent provided a deadline of January 7, 2011 for him to supplement his amended charge with additional information to support his claims and that the Board agent prematurely dismissed his charge on December 28, 2010.

PERB Regulation 32136² provides that a late filing may be excused in the discretion of the Board for good cause only. (*North Orange County Regional Occupation Program* (1990) PERB Decision No. 807; *Trustees of the California State University* (1989) PERB Order No. Ad-192-H.)

The record demonstrates that the Board agent had indicated to Lagos a deadline of January 7, 2011 for Lagos to supplement his amended charge. PERB received Lagos' supplement to his amended charge on January 6, 2011. Since PERB received Lagos' supplement to his amended charge prior to the Board agent's January 7, 2011 deadline, we find that Lagos' supplement to his amended charge is filed timely. Accordingly, we remand this case to the Office of the General Counsel for further investigation of Lagos' claims in his supplement to his amended charge.

² PERB regulations are codified at California Code of Regulations, title 8 section 31001 et seq.

ORDER

The unfair practice charge in Case No. SF-CO-755-E is hereby REMANDED to the Office of the General Counsel for further investigation.

Members McKeag and Dowdin Calvillo joined in this Decision.